

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 330 - Filing Requirements for Petitions of Public Convenience and Necessity for Electric Generating and Transmission Facilities.

SUMMARY - This rule establishes filing requirements pursuant to 35-A M.R.S.A. § 3132 for petitions of public convenience and necessity for the construction of new generating facilities of more than 1,000 kilowatts and new transmission lines of 100 kilovolts or more, and for amendments to agreements regarding such construction. In addition, this rule establishes filing requirements for rebuilding and relocating transmission lines of 100 kilovolts or more.

1. APPLICATION OF RULE AND DEADLINES

A. Certificate required. A utility must petition for, and receive, a certificate of public convenience and necessity from the Commission before erecting a permanently installed power generating facility of more than 1,000 kilowatts or transmission line with a capacity of 100 kilovolts or more or rebuilding or relocating a transmission line that has, or will have a capacity of 100 kilovolts or more that is the subject of a notification under section 12(C). Any petition for a certificate to erect a power generating facility shall provide the information required by sections 6, 7 and 9. Any petition to erect a transmission line with a capacity of 100 kilovolts or more shall provide the information required by sections 10 and 11. Any petition required under section 12 for a certificate of public convenience and necessity to rebuild or relocate a transmission line shall provide the information required by sections 10 and 11. This Rule also applies to any amendment, extension or renewal of any contract between the utility and other parties with an ownership interest, governing the terms of their participation in the construction of a generation or transmission facility subject to this Rule, for which the original contract was subject to the approval of the Commission.

B. Deadlines and extensions.

1. The Commission shall issue its order within 15 months after a petition for approval of a generating facility and any resulting transmission lines is filed with the Commission and within 6 months after a petition for approval of a transmission line alone is filed.

2. The period may be extended either by agreement of all the parties or by the Commission upon its determination that the party seeking the extension had to that time prosecuted its case in good faith and with due diligence, was seeking the extension because of circumstances beyond that party's control for which it had no reasonable substitute, and would be unreasonably disadvantaged unless the extension were granted.

2. DETERMINATION OF COMPLIANCE WITH RULE

A. Review of sufficiency of filing. Within 15 days of the receipt of any petition submitted pursuant to this rule the Administrative Director of the Commission will inform the petitioner in writing of the specific deficiencies of the petition or that the petition complies with this rule. No petition shall be considered filed unless the requirements of this rule have been fulfilled. The filing date shall be the date the Administrative Director determines that a petition complies with the requirements of this rule.

B. Further review of sufficiency. Notwithstanding a finding by the Administrative Director that a petition is sufficient, any party to the proceedings commenced by the filing of the petition may contend that the information submitted pursuant to sections 6, 7, 9, 10 and 11 of this chapter is insufficient or defective. A party making such contentions may make such motions as would be proper had the information specified in sections 6, 7, 9, 10 and 11 been timely requested by that party under the rules governing discovery and been due to be served upon that party on the date of the petition filling. Any such motion must be made within 7 days after the party is allowed to participate in the proceeding or within 60 days after the initial receipt of the petition by the Commission, whichever is earlier.

3. NOTICE OF INTENT AND REQUESTS FOR WAIVERS

A. Notice of intent to file. A notice of intent to file a petition shall be submitted to the Commission no less than 3 months in advance of submitting its petition for approval of a proposed generating facility or any transmission line the construction of which is required as a result of the generating facility. The notice of intent shall include the following information: location and size of proposed project; type of facility; estimated cost; and proposed construction schedule.

B. General waiver provision. Upon written request and for good cause shown the Commission may waive any of the requirements of this rule, which are not mandated by statute.

C. Waiver of approval for amendments to previously approved agreements.

1. As provided in 35-A M.R.S.A. § 3132(11)(A), a utility may request a waiver from the application of section 3132 for amendments to agreements which were previously approved by the Commission under section 3132. The cover letter accompanying any request for a waiver must specifically state in the first sentence of the text of the letter, that the request is being filed pursuant to this section and that if the Commission does not act within 30 days (or 7 days if applicable) the waiver will be considered granted. The request for waiver may pertain to a particular amendment or to a certain category or type of amendment. Requests for waivers must describe the amendment and state the basis for the request. If the utility desires expeditious processing of the request, it shall state the date by which a response is requested and the reasons for the request for expedition. The Commission may grant the waiver if it finds that good cause has been shown that application of section 3132 and this rule is unnecessary, burdensome or impractical, and that the underlying purposes of section 3132 will not be significantly impaired.

2. If the Commission does not respond to a request for a waiver within 30 days, the request shall be considered granted. In the case of a request for expedited processing of the request for waiver, the request shall be considered to have been granted if the Commission has not responded by the date requested or within 7 days after filing of the request, whichever is greater. In the event of a denial of a waiver, the utility must file a petition as required in section 1. If the Commission grants a waiver for a category or type of amendment, as distinguished from a particular amendment, the utility shall notify the Commission of any amendments which fall within the category in the same manner prescribed for amendment to contracts not previously approved by the Commission under 35-A M.R.S.A. § 3132(11)(B) and section 4 of this rule.

D. Waiver of 3-month notice for amendments. For good cause shown, the Commission may waive the 3-month notice requirement in section 3132(1)(A) and section 3(A) of this rule for amendments which otherwise require approval under section 3132(11) and for which approval has not been waived under section 3(B) of this rule.

4. AMENDMENTS, EXTENSIONS AND RENEWALS TO CONTRACTS NOT ORIGINALLY SUBJECT TO APPROVAL BY THE COMMISSION

As provided in 35-A M.R.S.A. § 3132(11)(A), for any amendment, extension or renewal of any contract otherwise subject to this rule, but for which the original contract was not subject to approval by the Commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal. Commission approval of such amendments, extensions or renewals is not required.

5. FILING FEES

A. Fee required. A utility shall pay a filing fee to the Commission when it files a petition under this rule. The amount of the fee shall equal $2/100$ of 1% (.02%) of the estimated cost to construct the generating facility or rebuild or relocate the transmission line. Any portion of the filing fee received from a utility but not expended by the Commission to process the petition for a certificate of public convenience and necessity shall be returned to the utility.

B. Waiver. A utility may request a waiver of all or a portion of the filing fee at the time it files a notice of intent to file the petition, or, in the case of a transmission line which does not result from the construction of a generating facility, at the time the petition is filed. The Commission shall rule on the request for waiver within 30 days.

C. Exception for minor projects. A filing fee shall not be required with respect to an application concerning transmission lines or generating facilities if the total cost of the project is less than \$1,000,000, unless the Commission orders otherwise upon a finding of need for a filing fee.

6. INFORMATION REQUIREMENTS TO SHOW NEED FOR POWER

A utility shall submit the following data to the Commission with any petition filed under this chapter for a certificate of public convenience and necessity for new generating facilities.

A. Load forecast. The projected kilowatt and kilowatt-hour demands by month, day and hour of use for each year during the succeeding thirty (30) years. The projection shall include:

1. The utility's load forecast assumptions by class and the bases therefor;

2. if the projection involves the use of a computer program, a description of the computer logic;

3. if the projection is based in part on reports generated by external sources, the title and date of the reports; and

4. if the projection is in the form of an internally or externally prepared report adopted by the utility, a copy of the report.

B. Preferred energy resource plan. The utility shall describe its energy resource plan for the next thirty years, which includes the capacity and energy which the proposed purchase or conversion is designed to provide. The energy resource plan also shall include:

1. The utility's plan for the addition of all capacity by amount and type, for purchases, and reasonably anticipated sales of energy and energy and capacity, including all reasonably anticipated qualifying facility power, and for capacity retirements for each year;

2. a complete description of planned conservation and load management programs which will be used to limit customer demand and the expected associated energy and capacity savings, by month, day and hour for each year of the forecast period.

3. if the energy resource plan is generated through the use of a computer program, a description of the computer logic;

4. if the energy resource plan is not generated through the use of a computer program, a description of alternative plans considered, the assumptions used with respect to each alternative plan considered, and the basis for choosing the plans adopted by the utility;

5. if the plan is based in part on reports generated by external sources, the title and date of the reports.

6. if the plan includes anticipated energy resources for which a firm contractual commitment has not yet been made, a description of all assumptions concerning the anticipated terms of the contract or nature of the resource; and

7. if the plan is in the form of an internally or externally prepared report adopted by the utility, a copy of the report.

C. Alternative energy resource plan. The utility shall describe reasonable alternative resource plans to that provided in subsection B. Each alternative energy resource plan shall include the items in subsection B above.

D. Costs. The utility's projected costs and revenue requirements associated with the preferred energy resource plan and alternative energy resource plans. The projections shall include:

1. The estimated capacity costs at completion of any planned capacity additions and planned firm capacity purchases, expressed in dollars per kilowatt per individual unit or purchase;

2. the estimated energy production and associated energy costs of each unit or purchase expressed in cents per kilowatt-hour per individual unit or purchase;

3. the total estimated capacity and energy costs of each planned capacity addition and each planned firm capacity purchase expressed in cents per kilowatt-hour for each year of the useful life of the planned capacity addition or firm capacity purchase. The time period for which these costs shall be expressed shall be the same as the preferred energy resource plans filed under subsection B, and alternative energy resource plans filed under subsection C;

4. the total estimated capacity and energy costs of each purchase of energy or capacity on a non-firm basis for each year of the energy resource plans;

5. the total estimated cost to the utility of each conservation or load management program expressed as cost per unit of energy or capacity or both saved over the useful life of the measure;

6. if the projections involve the use of a computer program, a description of the computer logic;

7. if the projections are based in part on reports generated by external sources, the title and date of the reports; and

8. if the projections are in the form of reports adopted by the utility, a copy of the reports.

7. SENSITIVITY ANALYSES OF PETITIONS FOR NEW GENERATING CAPACITY

Within sixty (60) days from the initial filing, sensitivity analyses of the original filing using reasonable alternative assumptions may be proposed by parties and intervenors to any docket instituted to examine the utility's filing. The utility shall undertake to perform these analyses following a reasonable opportunity to object or to suggest changes to the parties' proposals. This time limit may be extended on a showing of undue hardship.

8. WAIVER OF INFORMATION REQUIREMENTS

A. Request for waiver. Any utility without the capability of performing the calculations required in sections 6(B), (C) and (D) may file a request for a waiver. Requests for waivers shall include a statement of the utility's current and future capabilities regarding the calculational requirements and the estimated cost of acquiring the necessary capability.

B. Grant of waiver. The Commission may, at its discretion, grant a waiver. Such waiver shall set forth revised data reporting requirements which shall be sufficient to allow the Commission to properly consider any petition filed under this chapter.

9. SITE LOCATION OF PROPOSED GENERATING FACILITY

A. Selection site. The Petitioner shall supply all studies or memoranda relating to the decision to site a new generating plant. Supply a description of all sites: (a) owned by the Petitioner or on which the Petitioner has options or other means of access convertible to the equivalent of ownership; and (b) not owned by the Petitioner but considered and rejected. List the criteria used in site selection and explain the basis for the selection of the proposed site.

B. Potential expansion at proposed site. The Petitioner shall supply an explanation of potential expansion of facilities at the proposed site beyond what is proposed by the current filing.

C. Potential expansion at other generating facilities. The Petitioner shall supply an explanation of the potential expansion of all existing generating facilities owned or partially owned by the Petitioner.

10. NEW TRANSMISSION FACILITIES

A. Maps. The Petitioner shall include a map or plat of sufficient scale, which shows, in detail, the proposed location of the line; the width of the corridor in which it is proposed to be located; the location of existing incorporated communities; the principal topographic features of the proposed location; public or private recreational areas, parks, forests, hunting or fishing areas, or similar facilities; historical or scenic areas or places; rivers, lakes, streams, reservoirs and similar bodies of water, located within five miles of either side of the center line of the proposed corridor. The Petitioner shall also include a written description of the corridor in which the line will be

constructed sufficient to locate the corridor on the face of the earth.

B. System diagrams. The Petitioner shall provide one-line system diagrams showing the following details:

1. All affected existing and proposed transmission lines, substations, substation buses, and transformers.

2. Existing and proposed voltage and capacity ratings of all affected lines, buses, transformers and protective and switching equipment.

3. Highest peak load experienced during normal operating conditions of each affected line and substation.

4. The highest peak load experienced during normal operating conditions of each affected line and substation.

5. Projected five and ten year peak loading on each affected line and substation with and without proposed changes.

C. Description of type of line. The Petitioner shall provide a description of the type of line to be constructed. The description shall include the height of the line, the number and type of poles or towers to be placed thereon, the number and size of wires to be used, and all safety features to be used in connection therewith.

D. Description of proposed corridor. The Petitioner shall provide a description of the proposed corridor, identifying locations where the degree of the slope is in excess of twenty degrees, and specifying those portions of the proposed corridor to which Petitioner has acquired property rights.

E. Cost estimates. The Petitioner shall provide a breakdown of cost estimates in the general form indicated.

	Line 1	Line 2	Substation 1	Total
Construction				
Labor				
Material				
General and				
Administrative				
Land Total				

F. Costs to date. The Petitioner shall provide a breakdown, similar to Item E, of all costs incurred to date.

G. Description of changes. The Petitioner shall provide (1) descriptions of any other changes in plant or in system operation that will result from the erection or operations of the proposed lines, (2) an explanation of the causes of or reasons for all such changes, and (3) estimates of all costs associated with each such change.

H. Alternative routes. The Petitioner shall state whether alternate routes for the proposed lines have been investigated. If the Petitioner has investigated alternate routes for the proposed transmission lines, the Petition shall include all studies, reports, or other data relied upon in the investigation of alternate routes and shall clearly state the process by which Petitioner selected the proposed route.

I. Alternatives to construction of transmission line. The Petitioner shall state whether alternatives including conservation or load management to the proposed transmission line project were investigated. If the Petitioner has investigated alternatives, the petition shall include all studies, reports, or other data relied upon in the investigation of such alternatives and shall clearly state the process by which Petitioner decided upon the proposed construction, rebuilding, or relocation project. Specifically, the Petitioner should state the purposes and benefits of the proposed project (such as the promotion of reliability and line loss reduction) and whether cost-benefit analyses have been performed.

11. SYSTEM RELIABILITY

A. Analysis required. Each Petition shall include an analysis of the effects of the proposed line or rebuilding or relocation of a line on (1) the reliability of the transmission system as a whole and any relevant portion or subsystem thereof, and (2) the capability of the transmission systems to serve existing and projected loads.

B. Content of analysis. The analysis shall clearly identify:

1. The standards used to evaluate the effects on system reliability and capability; and

2. All assumptions and data used in the analysis.

12. REBUILDING AND RELOCATION OF TRANSMISSION LINES

A. Annual report. Each electric utility shall submit by April 1 of each year to the Director of the Technical Analysis Division a schedule of transmission line rebuilding or relocation projects which it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 100 kilovolts or more. The utility shall also identify in the schedule the planned construction of any transmission lines which will be capable of initially carrying 100 kilovolts or more, even if it is not expected to carry 100 kilovolts or more. The failure of a utility to file a schedule shall constitute an affirmative statement by the utility that it has no projects which it intends to carry out during the next 5 years. A waiver of any provision of this section may be requested from, and granted by, the Director of the Division of Technical Analysis for good cause shown. Requests must be in writing and state the basis for the requested waiver.

B. Content of report. The contents of the annual schedule must include the following information on each proposed project:

1. Identification (e.g. "Section 35")
2. Location
3. Length
4. Year Originally Constructed
5. Voltage Level
6. Existing Conductor (e.g. "266.8 KCM ACSR")
7. Existing Structure Material and Design (e.g. "Wood H-Frame")
8. Peak Load
9. A copy of the most recent depreciation study conducted by the company which includes the useful lives of the poles and conductors which constitute the existing transmission system.
10. Estimated cost of the rebuilding or relocation project in nominal dollars.

C. Notification to submit petition. If the Director of the Division of Technical Analysis notifies the electric utility within 60 days of the annual filing that an investigation of any transmission line rebuilding or relocation is warranted, the utility must submit a petition for public convenience and

necessity pursuant to section 1 of this rule. The absence of Commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

13. DELEGATION

The Commission's authority to grant waivers and exceptions under this chapter is hereby delegated to the Administrative Director and to the Hearing Examiner in any proceeding, both of whom shall consult with the Directors of Technical Analysis and Finance before acting on any request. This delegation does not limit the Commission's ability to consider requests directly or to review the actions of the Administrative Director or Hearing Examiner thereunder.

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BASIS STATEMENT: Chapter 33, Filing Requirements for Petitions of Public Convenience and Necessity for New Generating and Transmission Facilities, was adopted by Order dated June 27, 1979, in Docket No. M.202. The factual and policy basis for the original rule is set forth in the Order in M.202. The Rule was renumbered as Chapter 330 and amended in a number of respects in Docket No. 88-174. The factual and policy basis for these amendments is set for in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 88-174, issued on December 30, 1988. Copies of these statements and orders have been filed with this Rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director of the Public Utilities Commission, 242 State Street, Augusta, Maine 04333-0012.

AUTHORITY: 35-A M.R.S.A. §§ 101, 103, 104, 107, 111, 112, 3131 and 3132.

This rule was approved by the Secretary of State on January 11, 1989, and will be effective on January 16, 1989.